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In re Application of :
TAKAI et al. :
Application No.: 10/590,872 :
PCT No.: PCT/JP05/03018 :
Int. Filing Date: 24 February 2005 :
Priority Date: 27 February 2004 :
Attorney Docket No.: 5048/76775 :
For: OPTICAL MEMBER AND BACKLIGHT
USING THE SAME

DECISION ON PETITION

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.182" dated 27 October 2008.

BACKGROUND

On 25 August 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; an executed declaration; and a translation of the international application into English.

On 30 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration was defective because the second inventor was not identified by the name listed on the international application. The notification set a TWO (2) MONTH period for response.

On 07 July 2008, mailed a Notification of Abandonment indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 30 April 2007 within the time period set therein.

In a decision dated 09 September 2008, applicants petition under 37 CFR 1.182 filed 30 July 2008 was dismissed without prejudice, however, the Notification of Abandonment mailed 07 July 2008 was vacated.

On 27 October 2008, applicants filed the present renewed petition under 37 CFR 1.182.

DISCUSSION

Section 605.04(b) of the Manual of Patent Examining Procedure states that:

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

In this case, the surname of the second inventor is listed as "ARAKI" on the published international application and as "ANDO" on the declaration. This is more than a mere typographical error or a phonetic misspelling of the applicant's name. Accordingly, the submission of this declaration has been treated as a petition under 37 CFR 1.182 to correct the name of record for this inventor. For such a petition to be grantable, MPEP § 605.04(c) states that "the petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order.

Here, applicants' previous submission included the authorization to charge Deposit Account No. 03-3125 for required fees. As for the affidavit requirement or copy of the court order, applicants have submitted "Declaration of Sachiko Ando nee Sachiko Araki" (affidavit) regarding the name change. This affidavit states that the inventor's surname was changed, and that her name was legally changed to Sachiko Ando as a result of marriage. Hence, the declaration (affidavit) supplied satisfies the requirements for a grantable petition. Therefore, item (2) has been satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Sachiko Ando to Sachiko Araki is GRANTED.

Based on the above, the declaration filed 25 August 2006 is in compliance with 37 CFR 1.497. This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision.



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